



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
002-1267
MassDEP File #
eDEP Transaction #
Amesbury
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms
on the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Amesbury
Conservation Commission

2. This issuance is for (check one):
a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Robert

a. First Name

Desmarais

b. Last Name

Amesbury, Dept. of Public Works

c. Organization

39 South Hunt Road

d. Mailing Address

Amesbury

e. City/Town

MA

f. State

01913

g. Zip Code

4. Property Owner (if different from applicant):

City of Amesbury

a. First Name

City of Amesbury

b. Last Name

c. Organization

City Hall, 62 Friend Street

d. Mailing Address

Amesbury

e. City/Town

MA

f. State

01913

g. Zip Code

5. Project Location:

Lion's Mouth Road Right-of-Way

a. Street Address

Amesbury

b. City/Town

n/a

n/a

c. Assessors Map/Plat Number

d. Parcel/Lot Number

Latitude and Longitude, if known:

d
d. Latitude

m

s

d
e. Longitude

m

s



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
n/a
a. County _____ b. Certificate Number (if registered land) _____
n/a
c. Book _____ d. Page _____
7. Dates: 8.6.2020 9.9.2020 9.17.2020
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
Lion's Mouth Road Sidewalk Extension (sheet 1 of 2 and sheet 2 of 2)
a. Plan Title _____
City of Amesbury n/a
b. Prepared By _____ c. Signed and Stamped by _____
5.29.2020 1" = 20'
d. Final Revision Date _____ e. Scale _____
See Appendix
f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
- Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☐ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 50
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	<u> </u> a. square feet	<u> </u> b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 002-1267 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1) ☐ is not (2) ☒ subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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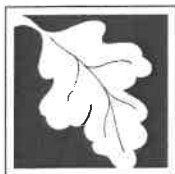
C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Attachment to Order of Conditions



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Amesbury hereby finds (check one that applies):
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Amesbury Wetlands Ordinance

AWO

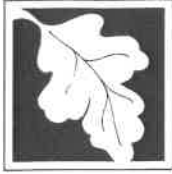
1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See Attachment to Order of Conditions



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

9.17.2020

1. Date of Issuance

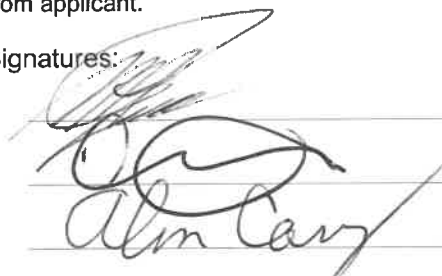
Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:



☒ by hand delivery on

9.17.2020

Date

☐ by certified mail, return receipt requested, on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Amesbury
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Amesbury
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Lion's Mouth Road Right-of-Way
Project Location

002-1267
MassDEP File Number

Has been recorded at the Registry of Deeds of:

Essex South
County

Book

Page

for: City of Amesbury
Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

9.17.2020
Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

ATTACHMENT TO ORDER OF CONDITIONS

Applicant: Robert Desmarais, Director
Department of Public Works

Property owner: City of Amesbury

Site Address: Lion's Mouth Road Right-of-Way

DEP File: 002-1267

Pursuant to the Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and Regulation (310 CMR 10.00-10.60), and the Amesbury Wetlands Ordinance and its implementing regulations:

This Order permits: Construction of a five foot wide sidewalk. The sidewalk would be constructed between the 50 and 100 foot Buffer Zone to Bordering Vegetated Wetlands

Approved Plans and Relevant Documents

1. Existing Site Plan with Erosion Control - Construction Plan, Lion's Mouth Road at New School Entrance for Sidewalk Extension (sheet 1 of 2). Prepared by: Amesbury Department of Public Works - Engineering Office. Scale: 1" = 20'. Date: 5.29.2020
2. Sidewalk Construction Plan, Lion's Mouth Road at New School Entrance for Sidewalk Extension (sheet 2 of 2). Prepared by: Amesbury Department of Public - Works Engineering Office. Scale: 1" = 20'. Date: 5.29.2020
3. Wetland Consultation Services letter of Amesbury Conservation Commission, Notice of Intent, Sidewalk Construction, Lion's Mouth Road, Amesbury. WCS Proj # Ames DPW-15. Date: 8.5.2020

I. GENERAL CONDITIONS:

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order of Conditions ("Order").
2. Approval of this application does not constitute compliance with any law or regulation other than MGL Chapter 131, Section 40, Wetlands Regulations CMR 10.00 and Amesbury Wetlands Protection Ordinance ("Ordinance") and its implementing regulations ("Regulations") as promulgated by the City of Amesbury Conservation Commission (ACC).
3. This Order shall apply to any successor in interest or successor in control of the property.
4. The work authorized hereunder shall be completed within **three (3) years** from the date of this Order.

5. This Order may be extended by the issuing authority for one or more periods of up to one year each upon application to the issuing authority at least **thirty (30) days** prior to the expiration date of the Order.
6. A sign shall be displayed at the site not less than two (2) feet or more than three (3) square feet in size bearing the words,

"MA DEP File Number 002-1267"

7. The Amesbury Conservation Commission (ACC) reserves the right to impose additional conditions on this project including but not limited to additional or modified erosion control / siltation controls during construction, if it deems that site conditions warrant such measures to mitigate potential impacts.
8. A copy of this Order and the plan approved in this Order shall be available on site at all times when work is in progress.
9. If the subject parcel is sold or the development rights are transferred to any other person, the applicant shall be required to submit to the ACC a signed and notarized letter of acknowledgement from the buyer or their assignees stating that they have been provided copies of all permits associated with the proposed project, including this Order, and that they understand their responsibility associated with the construction of this project under those permits, including this Order.
10. Any modification to the approved site plan shall require review and approval by the ACC. Prior to consideration of any such request, the wetland resource area shall be re-flagged or the originally approved flagging shall be established in the field. The applicant shall be required to submit the modification in request in writing along with all the necessary forms and supporting documents in a timely manner for the Commission's consideration. The ACC may require all modification requests to be reviewed by its peer review consultant and the applicant shall submit the necessary funds to the ACC for the consultant services. The Commission shall review the request and decide if an Amended Order is required.
11. Any change that requires modification of approved plans within the jurisdictional area or changes to the erosion control plan or to the stormwater management system shall require an Amended Order unless the Commission decides otherwise at its regularly posted public meeting. If the ACC decides that a change is of sufficient magnitude that it shall require the imposition of additional conditions to ensure adequate protection of the resource area and / or the interests covered under the Ordinance and Regulations, an Amended Order shall be required and a new public hearing shall be required.
12. Any requests for modification or amendment of the Order shall not be considered or reviewed if the Order has expired or there is an outstanding Enforcement Order on the subject parcel.
13. The applicant shall designate an **'Environmental Monitor'** such as a Registered Professional Engineer or Professional Wetland Scientist, who has relevant experience in wetland impact / assessment and erosion / sedimentation control measures to oversee any emergency placement of controls and regular inspection or replacement of sedimentation control device. The name and phone number of the Environmental Monitor must be provided to the ACC in the event that this person has to be contacted, due to an emergency at this site, during any 24-hour period, including weekends. **This person shall be given the authority to stop construction should there be unlawful entry into the wetland resources areas and / or for erosion controls purposes.** The Environmental Monitor will be required to inspect all such devices and oversee cleaning and the proper disposal of waste products. Cleaning shall include removal of any

entrapped silt. **The Environmental Monitor shall conduct site inspections on site for compliance with this Order at a minimum of once per week and during or immediately after rainstorms of 0.5 inches or more.**

II. PRE-CONSTRUCTION CONDITIONS:

1. Prior to the pre-construction meeting and commencement of any activity on this site, the boundaries of all wetland resource areas shall be identified by flagging, spaced at intervals not greater than 25-feet apart. Wetland flags shall be checked and replaced as necessary and maintained until a Certificate of Compliance is issued for the project.
2. Prior to the pre-construction meeting and commencement of any activity on this site, all erosion control devices approved under this Order shall be properly installed as shown on approved plan. If required, erosion control barriers shall consist of entrenched silt fence backed by double-staked hay bales. The ACC and/or its Agent shall inspect and approve such installation at a pre-construction meeting. The erosion control devices must remain in place until the Commission or its Agent has authorized their removal. All workers must be instructed not to work beyond this limit.
3. Once the above mentioned pre-construction requirements are complete, the applicant shall contact the Conservation Department prior to site preparation or construction and shall arrange an on-site PRE-CONSTRUCTION MEETING with a representative from the ACC and/or its agent, the project supervisor, the contractor responsible for work, the engineer, wetland scientist (if applicable), and the applicant to ensure all of the Conditions of this Order are understood. Please contact the Amesbury Conservation Department office at (978) 388-8110 ext. 317 at least seventy-two (72) hours prior to any activity to arrange the pre-construction meeting.
4. Inform all contractors and subcontractors of the conditions and provisions of this Order. This Order shall be included in all construction contracts and subcontracts dealing with the work, and shall supersede other contract requirements.

III. CONSTRUCTION CONDITIONS:

1. If warranted, a copy of the recorded Order shall be provided to the Building Inspector at the time of making application for Building Permit along with a set of approved plans if warranted.
2. Prior to making application for building permits, copies of all recorded legal documents pertaining to drainage and utility easements, restrictions on individual lots and other conservation restrictions shall be provided to the Commission for their records.
3. Accepted engineering and Best Management Practices for construction standards shall be followed in the conduct of all work. All site improvements shall be installed as per approved plans and engineering details shown on them. Any modifications or deviations from approved plans shall only be made upon approval from the Commission.
4. Erosion control devices shall be inspected regularly; and immediately after 0.5 inches of precipitation. Any entrapped silt shall be removed to an area outside of the buffer zone and wetland resource areas; silt fence and hay bales shall be replaced as necessary.

5. No alteration or activity shall occur beyond the limit or work as defined by the siltation barriers shown on the approved plan.
6. All waste generated by, or associated with, the construction activity shall be contained within the construction area, and away from the resource area. There shall be no stump dumps, burying of stumps or any material onsite. The applicant shall maintain a dumpster (or other suitable means) at the site for the storage and removal of such construction material off-site. However, no trash dumpsters will be allowed within 100-feet of the Bordering Vegetated (BVW) or riparian bank.
7. All stockpiles shall be enclosed by erosion control consisting of hay bales and entrenched silt fence. There shall be no stockpiling outside the approved limit of work, and no stockpiling within 100' of wetland resource areas.
8. Equipment storage and refueling operations shall be situated in an upland area at a distance greater than 100-feet from the BVW or jurisdictional water body. All machinery shall be checked daily for leaking fluids.
9. Cleaning of concrete mixing equipment and/or machinery shall be restricted to upland areas at a distance greater than 100 feet to the BVW, and shall be limited to minor cleaning only..
10. During construction, chemicals, pesticides, herbicides, etc. shall not be used or stored within 100' of a jurisdictional resource area with the exception of the use of herbicides as part of the approved Invasive Species Management Plan.
11. Any damage caused as a direct result of the construction of this project to any wetland resource areas shall be the responsibility of the applicant to repair, restore and / or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas, the Commission and/or its agents shall be contacted by telephone, with follow-up in writing, and a plan for abatement of the problem and proposed restoration / mitigation measures shall be submitted for approval and implementation. If the applicant fails to address the failure or damage as required by the Commission in a timely manner, it shall be deemed as a violation under the Regulations.

IV. AFTER CONSTRUCTION:

1. The applicant shall make request for Certificate of Compliance as provided for under Section 7.12 of the Amesbury Wetlands Regulations, as amended. **Upon completion of the project, the applicant shall submit the following to the Amesbury Conservation Commission to Request for a Certificate of Compliance (COC):**
 - a. WPA Form 8A- Request for a Certificate of Compliance;
 - b. A letter from the applicant requesting the Certificate of Compliance with the following information included:
 - i. Name and address of current landowner;
 - ii. The name and address of the individual or other entity to whom the COC is to be issued;
 - iii. The street address and lot number for the project; and DEP file #

- iv. “As-Built” plans stamped and signed by a professional engineer shall be submitted for review and approval by the ACC.
 - v. Detailed letter outlining deviations from the approved site plan or any conditions along with supporting documents showing modifications are approved by ACC.
- 2. If warranted, erosion control devices shall remain in place and functioning properly until all exposed soils have been stabilized with final vegetative cover and the Commission and / or its Agent has authorized their removal.
- 3. Prior to issue of Certificate of Compliance, the applicant shall be required to pay in full any outstanding invoices from the Commission’s construction observation consultant.

V. PERPETUAL CONDITIONS:

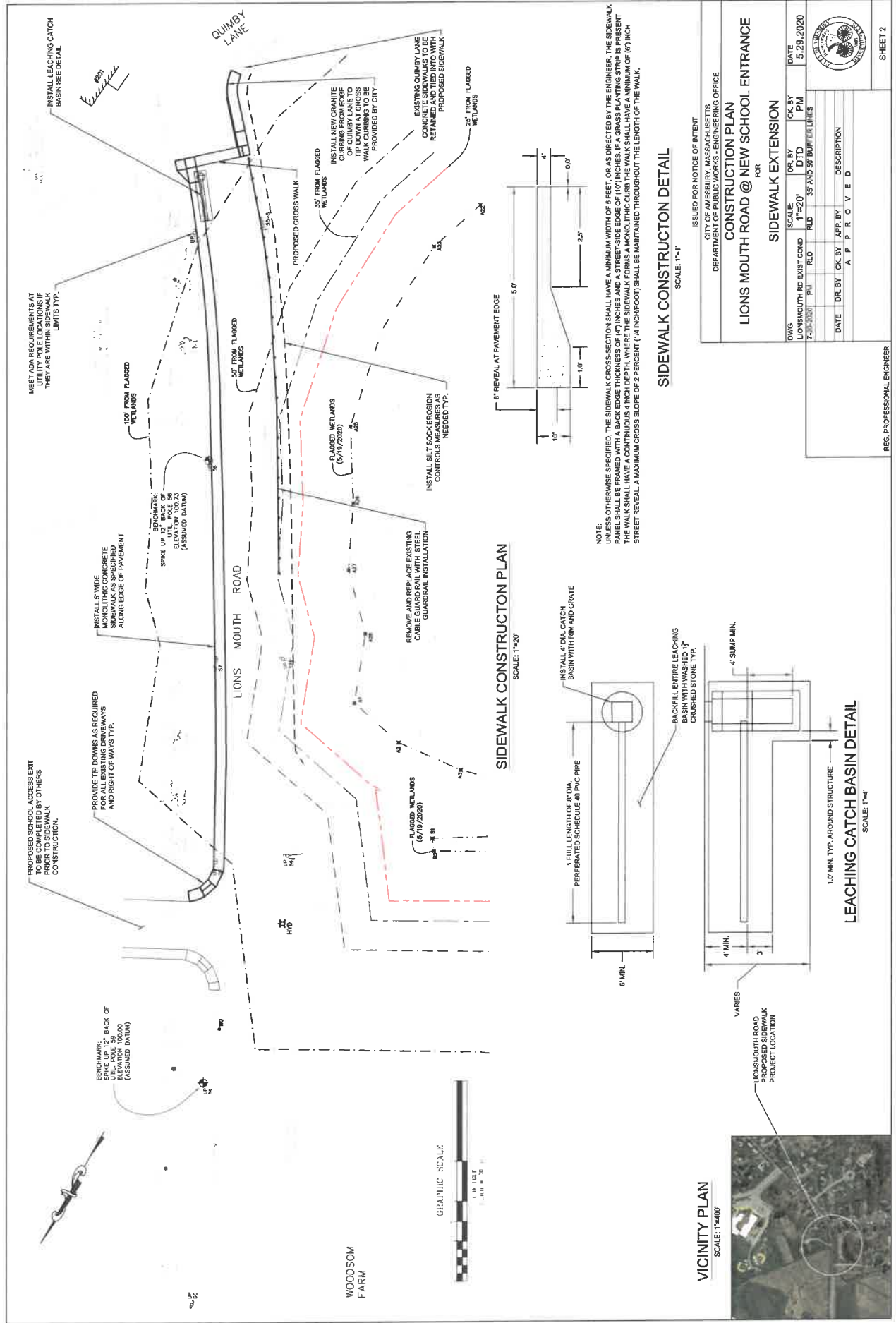
The following conditions are ongoing and do not expire with the issuance of the Certificate of Compliance:

- 1. Water quality to the adjacent jurisdictional resources shall not differ significantly following the completion of the project from the pre-development conditions. There shall be no sedimentation into the resource areas from discharge pipes or surface runoff leaving the site. This shall be a continuing condition in perpetuity.

Appendix

Approved Work

Description and Plans





Wetland Consulting Services

August 5, 2020

Mr. Kinsey Boehl, Chair
Amesbury Conservation Commission
62 Friend Street
Amesbury, MA 01913

WCS Proj #: Ames DPW-15

RE: Notice of Intent, Sidewalk Construction, Lions Mouth Road, Amesbury

Dear Mr. Kinsey and Commissioners:

On behalf of the Amesbury Department of Public Works (DPW), 39 South Hunt Road, Amesbury, MA 01913, Wetland Consulting Services (WCS) is filing this Notice of Intent (NOI) under the Massachusetts Wetlands Protection Act and the Amesbury Wetlands By-law.

The DPW would like to construct a sidewalk on the northern side of Lions Mouth Road as part of the new school entrance to the Cashman school. The proposed work would occur within the 100 ft upland buffer zone to a Bordering Vegetated Wetland (BVW) located on the southern side of the road. No wetlands would be impacted from the project. Since this is a municipal project no filing fee is being submitted, and no waiver requests appear needed under the Amesbury Wetlands Bylaw.

As part of this application, the following information is also being provided:

- a) WPA Form 3 NOI
- b) NOI Project plans (2 sheets) prepared by the Amesbury DPW dated 05/29/20
- c) Figure 1 locus map
- d) Figure 2 sketch of the delineated wetland
- e) Photos A and B of the project area
- f) Photos C thru F of the delineated wetlands
- g) Abutter's list provided by the DPW (Table 1)
- h) Affidavit of Service
- i) copy of abutter notification and legal notice

Existing Conditions

The site for the proposed school sidewalk lies along the northern side of Lions Mouth Road (see Locus map Figure 1). On May 19, 2020, WCS inspected the area around Lions Mouth Road. The area for the proposed sidewalk exists as a maintained lawn area bordered by a row of small trees (see Photo A). Along the southern side of the road between Quimby Lane and a private gravel driveway lies two BVWs just behind a narrow strip of upland forest (see Photo B). WCS flagged the limits of the BVW at that time. The criteria¹ used to identify the edge of the BVW corresponds with the procedures used to

¹Delineating Bordering Vegetated Wetlands under the Massachusetts Wetlands Protection Act: a Handbook. March 1995.

delineate a Bordering Vegetated Wetland resource area pursuant to 310 CMR 10.55 (2) and the Amesbury Wetlands By-law. Two wetlands were flagged. The edge of the wetlands were flagged using either pink surveyor's tape or wetland pennants labelled with the following alpha-numeric series (see sketch Figure 2):

A1 through A28
B1 through B10

The wetland edge was surveyed and shown on project Sheet 1. The 25', 35', 50' and 100' upland buffer zones are also shown. Wetland A exists predominately as a seasonally saturated (poorly drained), palustrine, persistent emergent wetland (PEM1/E)² dominated by reed canary grass (*Phalaris arundinacea*), sensitive fern (*Onoclea sensibilis*), sedge (*Carex crinita*), and goldenrod (*Solidago* sp.). A small scrub/shrub (PSS1E) dominated by multi-flora rose (*Rosa multiflora*), red maple (*Acer rubrum*), poison ivy (*Rhus radicans*) and mustard (*Rorippa islandica*) surrounds the emergent wetland (see Photos A, B and C). Water from Wetland A drains through a culvert across Quimby Lane and eventually flows into a wetland as part of the M. Rice Conservation Area.

Wetland B is simply an emergent wetland best described as a swale located along the existing gravel driveway (see Figure 2 and Photo F). Water flows from this wetland across the driveway thru an 18" cpp into Wetland B.

None of the project area or wetlands lie within floodplain or have any documented rare or endangered species or habitat.

Proposed Project

The City would like to install a paved 5' wide concrete sidewalk along the northern side of Lions Mouth Road (see Photo A and Sheet 2 of the plans prepared by Amesbury DPW). A small leaching catch basin is also shown to contain runoff from the sidewalk. All construction would occur between 50' and 100' from the flagged wetland with Lions Mouth Road separating the wetland from the project area. The only upland area impacted exists as mowed lawn. No erosion control is proposed.

Finally, pursuant to Section 3.0 (Regulated Activities) of the Amesbury Wetlands Regulations, we wish to address the following activities:

3.1. Activity proposed or undertaken within a Resource Area as described in AWR 2.0

See proposed project above

3.3. Any activity, including but not limited to, any and all of the following activities when undertaken to, upon, within or affecting Resource Areas or their wetland values, as determined by the Commission:

Produced by the Mass. DEP, Div of Wetlands and Waterways.

² Cowardin, L., V. Carter, F.C. Golet and E.T. LaRoe. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish Wildl. Serv. FWS/OBS-79/31.

- a) Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;

Minor grading and excavation will occur in the lawn area along the northern side of the road to accommodate the sidewalk

- b) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;

Infiltration will be provided from the leaching basin shown on Sheet 2 to accommodate any change in drainage.

- c) Drainage, or other disturbance of water level or water table;

No change.

- d) Dumping, discharging, or filling with any material which may degrade water quality;

No impact.

- f) Driving of piles, construction or expansion or repair of buildings or structures or construction of any kind whether it be for industrial, commercial, residential, recreational or other purposes, regardless of its size;

No impact. It is simply the construction of a sidewalk.

- g) Placing of obstructions or objects in water or the surface water or alteration of the groundwater hydrology of any resource area;

No impact.

- h) Destruction or removal of plant life, including but not limited to, cutting or trimming of trees and shrubs;

Only existing lawn would be impacted (see Photos A and B).

- i) Changing temperature, biochemical oxygen demand or other physical, biological, or chemical characteristics of any waters;

No impact.

- j) Any activities, changes, or work that may cause or tend to contribute to pollution of any body of water or groundwater; and

No impact.

k) Incremental activities that cause, or may cause a cumulative adverse effect on the resource areas and interests protected by the Wetlands Protection Ordinance or these Regulations.

No impact.

If this project is approved, it would be completed in the Spring of 2020. Hopefully, the Commission has received sufficient information to make a decision. The project involves only minor work in previously disturbed upland areas.

If you have any questions or require any additional information at this time, please feel free to contact me at 978-346-9857 or Rob Desmaris, DPW director, at 978-388-8116.

Sincerely,
Wetland Consulting Services,



Robert Prokop
Wetland Scientist/Wildlife Biologist

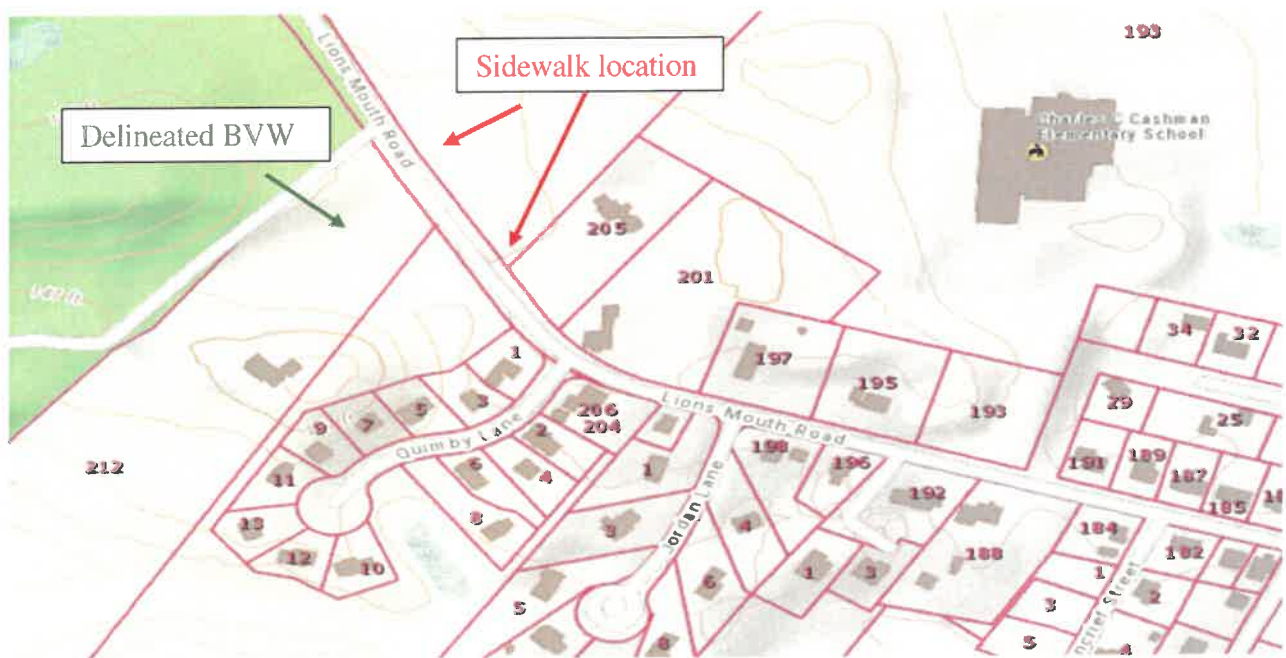


Figure 1. Locus map of the project area and wetland delineation along Lions Mouth Rd, Amesbury.



Figure 2. Sketch of wetland delineation off Lions Mouth Road and Quimby Lane in Amesbury. Location of proposed sidewalk also shown. Delineation conducted by B. Prokop of Wetland Consulting Services on 05/19/20.



Photo A. Easterly view of the area proposed for the sidewalk along Lions Mouth Road. Photo by B. Prokop on August 4, 2020.



Photo B. Strip of upland forest (right side of photo) located along the southern side of Lions Mouth Road just upslope of the delineated wetland. Sidewalk to be constructed along the left side of the photo. Photo by B. Prokop on August 4, 2020.



Photo C. Easterly view of the emergent wetland as seen from the gravel driveway. Photo by B. Prokop on May 19, 2020.



Photo D. Westerly view of the emergent wetland as seen near Quimby Lane. Photo by B. Prokop on May 19, 2020.



Photo E. Wetland edge along gravel driveway. Photo by B. Prokop on May 19, 2020.



Photo F. Wetland B that exists as a vegetated swale that drains into Wetland A and is located along the western side of the gravel driveway. Photo by B. Prokop on May 19, 2020.